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SUBJECT: ANBAR CORRUPTION UPDATE NOVEMBER 2009

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Classified By: ACCO Joseph Stafford, reason 1.4 (b and d)

11. (C) Summary and Comment: Officers of the Anbar Provincial Reconstruction Team (PRT) and the Embassy Anti-Corruption Coordinator's Office met October 31-Nov 2 with local officials and PRT officers to discuss anti-corruption efforts in Anbar. Anti-corruption institutions are gaining legitimacy and capability, although institutional rivalries and low capacity at times create gaps in the "food chain" of case processing. The most intense rivalries appear to occur between the police and judiciary -- at least in the eyes of one investigative judge who views police corruption as a core problem -- and between the Commission on Integrity and the new Provincial Council Committee of Integrity, who both compete for jurisdiction over government inquiries. Lack of budget and legal authority for provincial officials also complicates the picture, issues that open doors for corrupt management.

12. (C) Anbar's Commission on Integrity (COI) is still building capacity with a caseload mainly centered on document forgery. The judicial treatment of corruption cases enjoys a solid institutional base but one judge complains of police corruption and ministerial meddling as key obstacles to prosecution of cases. There are reliable and anecdotal reports of corruption in customs administration (septel) and in the Public Distribution System (reftel), as well as in the allocation of infrastructure projects, jobs, and public property. Some oil smuggling has also been uncovered by the anti-corruption institutions. Corruption against senior officials is widely rumored, but many cases have been handled informally, rather than through COI and the judicial process, which has yet to produce any convictions of senior figures. Still, there are formal cases now being processed involving the former Mayor of Hit and a former Director General (DG) of Sewage, and one warrant against a former governor has been issued (but not executed).

13. (C) Informal corruption "reviews" of some officials are increasingly common and include public questioning by provincial council officials; administrative cases being opened by central government ministries; and dismissals and reassignments to new jobs, making anti-corruption efforts difficult to track. The Mayor of Habbaniyah, two police chiefs, and the provincial DG of Education have reportedly been caught up in such informal proceedings. Other local personalities are reported to be untouchable due to political, tribal, or family connections. Despite the clear challenges, these formal and informal efforts by various institutions in Anbar are a welcome alternative to pursuing justice through force. The PRT and MNF-W are making

impressive progress on an anti-corruption agenda, with activities, programs and mentoring on banking, contracting, customs, governance transparency, rule of law, political engagement, and public affairs. End Summary and Comment.

Anti Corruption Institutions Gain Capacity

14. (C) ACCO and PRT ROL officers met with a senior officer of the local Commission on Integrity (COI) and an investigative judge who handles corruption cases on November 1 and 2, respectively. They outlined several challenges, but showed determination to pursue anti-corruption efforts vigorously. On November 1, Anbar Commission on Integrity Vigorously. On November 1, Anbar Commission on Integrity Investigations Chief Muhannad Rajab al Sarhid told us that Anbar COI continues to face logistical and political challenges. The Anbar COI has been in operation only since May 2009 and has had typical start-up problems. COI,s generator died in October, so their office relies now on city power, which averages two hours per day. The staff of seven manages the provincial investigative workload, while also performing all support functions, including janitorial. The office has no official vehicle and no personal security for their movements, despite several threats. The security force of 15 that was provided by the Ministry of Interior in July was unarmed and, he claimed, had not been paid. Budget constraints for both COI and MOI clearly made their task more difficult (and dangerous).

15. (C) Investigative Judge Khalid Abduljaber Muhsin, one of three judges to whom the COI refers cases, told us November 2 that the judges were well-established in a new judicial center in central Ramadi that had been renovated by the U.S. He complained that anti-corruption efforts were complicated

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by what he called "dishonest Ramadi police." He recounted a case of a police colonel taking a USD 50,000 bribe from a suspected terrorist's father to help the son escape conviction. The victim was released as the police produced a false witness to exonerate the suspect. At that point, the individual terrorist was recaptured by the Area Operations Commander in Anah and informed on the police chief, who then threatened the suspect. The suspect had documented the bribe on his cell phone camera, but Khalid told ACCO and PRT representatives that no one in the police force will bring a case against the officer. (COMMENT: MNF-W POLAD reports that the insitutional suspicion is mutual, sometimes warranted. In one example, MNF-W obtained evidence of corruption and infiltration of the courthouse in Al-Qa'im that prevented justice being carried out against a terrorist who killed a U.S. Marine. Fallujah and Hadithah courts have reportedly been subject to political interference; there is no question that both corruption and this rivalry between police and the judiciary will diminish as security and political reconciliation advance. End Comment.) Another problem noted by Khalid was the fact that Anbar's tribes continue to treat the government like another tribe, offering deals to police and judges or "simply taking the law into their own hands when it suits them." Many view corruption as "taking their just due." Khalid said that there was a valid case against the head of the Nimr tribe for selling oil from local pipelines he was tapping illegally -- he had signed an arrest warrant for the man -- but law enforcement entities lacked the institutional clout to execute it.

16. (C) Khalid -- who has been a judge for 20 years and served in several Iraqi provinces -- said that there had been petty, isolated corruption among police under Saddam, not the rampant phenomenon seen today. He said in Anbar, one must pay USD 1000-1500 to get an entry-level police job, and police use their authority to shake down citizens routinely. More broadly, Khalid told us he doesn't need new laws to tackle corruption effectively; in fact, he noted, the Revolutionary Command Council had toughened anti-corruption

statutes in the 70's and the law now allowed the death sentence for some cases. He did not see the need for new bodies or laws, saying "I have all the tools I need to go after corruption, and I prosecute these people like I prosecute terrorists because the consequences are severe. I just need someone to initiate the cases." He felt Iraqi ministries should use prosecutors more broadly to help move cases along, and he criticized the U.S. for what he claimed was an overemphasis on counterterrorism in judicial assistance efforts, urging that we too engage prosecutors who he says are key allies in pursuing corruption cases.

17. (C) Khalid praised the local COI office but noted the agency's caseload thus far was mainly personnel fraud. He said that many members of the Sons of Iraq were trying to channel their new power into politics and had submitted academic credentials to run for the Anbar provincial council.

Forged documents thus made up 85% of the cases COI had referred to him. (NOTE: According to MNF-W, personnel reform is also the focus of Provincial Governor Qasim, who has been tackling the longstanding problem of "ghost employee" payroll. Qatackling the longstanding problem of "ghost employee" payroll diversion by requiring the police to sign personally for their paychecks. END NOTE.) ACCO was unable to meet with the head of the new Provincial Council Integrity Committee, Sheikh Nasr al-Nimrawi, who had gone to Baghdad for a meeting. The Committee was formed by the Provincial Council in April, and, according to PRT, had conducted many open hearings about wrongdoing by government officials. Sarhid told us that he held the committee in low regard, as it was trying to subordinate the COI to the Provincial Council. Sarhid said that the committee has refused to pass on any of its own findings to his director for COI's investigative action, complicating lines of authority and enforcement of anti-corruption laws.

Arrest Warrants on Hold as Army/Police Jurisdictions Resolved

18. (C) Sarhid solicited U.S. assistance to remove what he felt was a significant obstacle to case processing. He said that Anbar Provincial Police Chief Tariq Yusuf al-Thiyabi had finally agreed to address lagging execution of warrants obtained from the judiciary by the COI, and in September had set up a special "task force" of police officers to whom he would entrust the corruption cases. The task force is headed by Iraqi Army Brigadier General Mohammed. However, Mohammed reports to the Anbar Area Operations Command (a body created last year by the Prime Minister to improve security

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coordination.) The AOC is headed by Iraqi Army Major General Aziz, who apparently told COI that he wants to review the warrants before letting his police task force execute them. Protesting Aziz' review authority, COI has suspended its submissions and now has a 50 case backlog. Sarhid said that other provinces may have similar problems; some have suggested a setting up a special national task force for execution of anti-corruption warrants, due to their political sensitivity.

19. (C) Judge Khalid told us that all of his cases are referred for the so-called "136b review" (a provision of the Criminal Procedure Code that requires ministerial approval for prosecution of cases already worked up by the Investigative Judge). He said that virtually every case he has processed has been shelved at the respective ministry -- some for two years -- effectively forestalling further action. Both he and Sarhid stated their opinion that the 136b requirement was blatant political intervention in the justice system, as only cases that had firm evidence were ever presented for review. Khalid confirmed he was so unhappy with the obstruction that he was exploring a work-around for a case he is processing against the local office of the Ministry of Labor and Social Affairs (MOLSA).

¶10. (C) Despite the challenges for the anti-corruption institutions, we were told that the COI has pursued many cases and some have seen judicial action. Sarhid said the COI had received 256 leads since it opened in May. Of these, it had opened 126 cases and obtained 70-75 arrest warrants signed by an investigative judge (any one of three to whom they refer cases, including Judge Khalid). 25-30 warrants had been executed, of which six cases had gone to trial; so far no judgments had been issued. Sarhid told us his office was pursuing a case against the former Mayor of Hit (Hakim) who was accused of extorting public funds. Sarhid boasted of his ongoing investigation of the MOLSA case referenced by the judge, saying the employee had apparently diverted 3 billion Iraqi Dinars from the national social safety net system (USD 2.6 million). Sarhid said the Director General of Sewage in Fallujah, Bassim Nadih, had fled the province after receiving scrutiny of the provincial council for corruption in public contracting. The COI was processing a case against him. (NOTE: Judge Khalid said that, in fact, the council had only recommended the DG's dismissal, and that the DG had left for a new job in Baghdad.) Khalid told us there had been a case against the former governor of Anbar, Abdul-Karim Barjis al-Rawi for acting outside of his jurisdiction and abuse of public funds. (NOTE: further details on al-Rawi in para 14. End Note.)

¶11. (C) While there is no solid law enforcement information on other cases, there are reports of possible corruption by other provincial officials. Infrastructure officers told us that the Anbar Provincial Council had asked Baghdad to fire an Anbar DG of Education for corruption this year; this individual indeed departed his post but the PRT did not have information on his status. The PRT/MNF-W (Multinational Forces-West) have reported that a former mayor of Habbaniyah, a District Chief of Police of Fallujah and the Provincial Qa District Chief of Police of Fallujah and the Provincial Director of Police have also been removed or retired by the Provincial Council on suspicions of corruption. COI indicated they did not have any cases pending against these individuals.

Murky Municipalities Cases

¶12. (C) PRT infrastructure and Rule of Law officers separately reported allegations of corruption involving the DG of Municipalities, Amar Fawzi, although the ROL advisor said "no one could touch him" because his wife was related to the Minister of Municipalities in Baghdad. Infrastructure officers indicated that the mayor and previous governor had both tried to fire Fawzi for misuse of funds at an asphalt factory, and for selling a USD 40,000 generator that he received from the U.S. ROL advisor indicated that Fawzi is reported to have secured USD 5 million from coalition forces to pave a road, spent USD 500,000 on the project, and then claimed USD 2 million in "reimbursement" for the finished road from the Provincial Council, netting USD 6.5 million for himself. In 2007, ROL says, Fawzi got USD 10/day from the U.S. to pay Sons of Iraq to pick up trash, a jobs program to improve security. Fawzi, he said, then paid local children

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USD 3/day and kept the rest for himself. ROL advisor also conveyed "widely circulated local rumors" that Fawzi was involved in the illegal sale, with the Iraqi Minister of Municipalities Riyadh Gharib, of 600 lots of prime real estate to Ministry of Education employees in Anbar. Judge Khalid agreed there had been fraudulent land deals but said it had been ex-Governor Rawi who gave away land in Anah and Rawah without the permission of the Ministry of Municipalities and that the Ministry had then pressed charges against him. Khalid said however, that Rawi had since gotten a job with Iraq's Ministry of Interior in Baghdad.

U.S. Assistance to Combat Corruption in Anbar

¶13. (SBU) USAID, ROL, ECON, PAS, and governance teams at the PRT are engaged in substantial efforts to improve business and governance practices, and to steer U.S. funding away from corrupt actors. PRT infrastructure officials told us the PRT had avoided any dealings with the DG of Sewage in Ramadi, after the individual approached them to suggest projects that exceeded the scope of needed treatment plants in Anbar. USAID and public affairs offices are organizing civil society events, to include local theater productions about the corrosive effects of corruption, and ECON and governance offices are training Iraqi counterparts on proper preparation of bid documents and processing of public tenders.

¶14. (SBU) ROL is procuring a legal library for contacts in the judicial sector that will help them process corruption cases; ROL is also exploring a possible generator procurement for the Anbar COI. PRT infrastructure projects contain an anti-corruption clause that explicitly prohibits contractors from entering into subcontracts with or making improper financial transfers to Iraqi officials or economic entities owned by them or their families. The PRT governance team is engaging local officials to push for expeditious action on transparency issues, including setting up a provincial gazette. The PRT Economic Section is working with the Provincial Council to improve transparency in personnel management by getting it to adopt electronic funds transfers for provincial government personnel.

¶15. (SBU) MNF-W also exerts considerable efforts to fight corruption: MNF-W provided assistance to the new Provincial Council as power shifted from the Sons of Anbar to elected government in January; it increased accountability and monitoring controls in its assistance programs and on projects; it provided funds for the judiciary complex remodeling; and provided extensive support through Police and Border Enforcement Transition Teams to professionalize and organize customs and port operations. Overall, anti-corruption remains a prime concern as reflected in the combined efforts of PRT and MNF-W Anbar.

HILL